

Case No. _____

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

CENTER FOR BIOLOGICAL DIVERSITY,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY; and

LEE ZELDIN, in his official capacity as Administrator
of the United States Environmental Protection Agency,

Respondents.

PETITION FOR REVIEW

Ragan Whitlock
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Counsel for Petitioner

**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1, 26.1-2, and 26.1-3, Petitioner Center for Biological Diversity certifies that it has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

Further, the following is a complete list of interested persons pursuant to Eleventh Circuit Rule 26.1-2(a) that have an interest in the outcome of this appeal:

Center for Biological Diversity (Petitioner)

Maher, Ryan (Counsel for Petitioner)

Mosaic Fertilizer, LLC (Subsidiary receiving approval)

The Mosaic Company, MOS (Parent company of subsidiary receiving approval)

United States Environmental Protection Agency (Respondent)

Whitlock, Ragan (Counsel for Petitioner)

Zeldin, Lee; Administrator, Environmental Protection Agency (Respondent)

Respectfully submitted,

/s/ Ragan Whitlock
Ragan Whitlock

Counsel for Petitioner

DATED: February 19, 2025

PETITION FOR REVIEW

Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), Rule 15 of the Federal Rules of Appellate Procedure, and Eleventh Circuit Rule 15, the Center for Biological Diversity hereby petitions the Court for review of the final action taken by Respondents United States Environmental Protection Agency and its Administrator, Lee Zeldin, (“EPA”) entitled “Notice of Approval for Other Use of Phosphogypsum.” EPA assigned this action Docket Number EPA–HQ–OAR–2024–0446. Notice of this action was published in the Federal Register on December 23, 2024. *See* 89 Fed. Reg. 104,535 (Dec. 23, 2024), attached hereto as Exhibit 1.

Respectfully submitted,

/s/ Ragan Whitlock

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*Counsel for Petitioner Center for Biological
Diversity*

DATED: February 19, 2025

CERTIFICATE OF SERVICE

Pursuant to Federal Rules of Appellate Procedure 3(d), 15(c), and 25; Eleventh Circuit Rule 25-3(f); and 40 C.F.R. § 23.12(a), I hereby certify that on February 19, 2025, I caused the foregoing to be electronically filed with the United States Court of Appeals for the Eleventh Circuit through the Court's CM/ECF system.

I also certify that on February 19, 2025, I will cause a true and correct copy of the foregoing, having been stamped by the Court with the date of filing, to be served upon the United States Environmental Protection Agency and Administrator Lee Zeldin, as well as Mosaic Fertilizer, LLC, by sending copies via certified mail, return receipt requested, to each of the following addresses:

Administrator Lee Zeldin
Office of the Administrator (MC 1101A)
United States Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460
zeldin.lee@epa.gov [*also sent via email*]

Attorney General Pamela Bondi
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Acting Assistant Attorney General
Environmental and Natural Resources Division
United States Department of Justice
950 Pennsylvania Avenue, NW

Washington, DC 20530

Correspondence Control Unit
Office of General Counsel (MC 2311)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Mosaic Fertilizer, LLC
13830 Circa Crossing Drive
Lithia, Florida 33547

/s/ Ragan Whitlock

Ragan Whitlock

EXHIBIT 1

(Final Notice of Approval)

ENVIRONMENTAL PROTECTION AGENCY

[FRL-12519-01-OA]

Meeting of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), the EPA hereby provides notice of a meeting of the Local Government Advisory Committee (LGAC) on the date and time described below. This meeting will be open to the public. For information on public attendance and participation, please see the registration information under **SUPPLEMENTARY INFORMATION**.

DATES: The LGAC will have a virtual meeting January 9th, from 2–3 p.m. Eastern Standard Time.

FOR FURTHER INFORMATION CONTACT: Frank Sylvester, Designated Federal Officer (DFO) of the Local Government Advisory Committee, at sylvester.frank.j@epa.gov or 202–564–1279.

Information on Accessibility: For information on access or services for individuals requiring accessibility accommodations, please send an email to LGAC@epa.gov. To request accommodation, please do so five (5) business days prior to the meeting, to give EPA as much time as possible to process your request.

SUPPLEMENTARY INFORMATION:

Content: The LGAC will discuss a welcome letter to the incoming administration, highlighting the committee's value to the Agency and where the committee can best help the Administration achieve its priorities. Meeting materials and recommendations will be posted online closer to the meeting dates.

Registration: Both meetings will be held virtually through Microsoft Teams. Members of the public who wish to participate should register by contacting Frank Sylvester, Designated Federal Officer (DFO) of the Local Government Advisory Committee, at sylvester.frank.j@epa.gov or 202–564–1279 at least 24 hours of the meeting start time. The agenda and other supportive meeting materials will be available online at <https://www.epa.gov/ocir/local-government-advisory-committee-lgac> and can be obtained by written request to the DFO. In the event of cancellation for unforeseen circumstances, please contact the DFO

or check the website above for reschedule information.

Francis Sylvester,

Designated Federal Officer, Office of Congressional and Intergovernmental Relations.

[FR Doc. 2024–30752 Filed 12–20–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2024–0446; FRL–12501–01–OAR]

Notice of Approval for Other Use of Phosphogypsum

AGENCY: Office of Air and Radiation, Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (the EPA or the Agency) has approved, subject to certain conditions, the request for a “Small-scale Road Pilot Project on Private Land in Florida” submitted by Mosaic Fertilizer, LLC in March 2022, and updated by the “Revised Request for Approval of Use of Phosphogypsum in Small-scale Pilot Project”, submitted in August 2023. The Agency’s review found that Mosaic’s request is complete per the requirements of EPA’s National Emissions Standards for Hazardous Air Pollutants under the Clean Air Act, and that the potential radiological risks from conducting the pilot project meet the regulatory requirement that the project is at least as protective of public health as maintaining the phosphogypsum in a stack. On October 9, 2024, the EPA issued a pending approval of the request and solicited public comments on the pending approval. While EPA received comments raising questions about the project, no comments were received which led EPA to change the results of its risk analyses for this proposed pilot project. This approval is only for the proposed pilot project, and EPA has placed conditions on the approval to make sure that the project remains within the scope of the application.

DATES: This decision is effective immediately.

FOR FURTHER INFORMATION CONTACT: Jonathan Walsh, Radiation Protection Division, Office of Radiation and Indoor Air, Mail Code 6608T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; 202–343–9238; Walsh.Jonathan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Phosphogypsum is the waste byproduct of wet acid phosphorous production. It contains elevated concentrations of the radionuclide radium, which decays to form radon gas. The EPA’s regulations under the Clean Air Act at 40 CFR part 61, subpart R (hereafter “Subpart R”) require that phosphogypsum must be disposed of in engineered piles, called stacks, to limit public exposure to its radioactive components. Subpart R allows the removal of phosphogypsum from stacks for outdoor agricultural purposes and indoor research and development, subject to conditions and restrictions. Any other use of phosphogypsum requires prior approval from the EPA. The EPA may approve a request for a specific use of phosphogypsum if it determines that the proposed use is at least as protective of public health as placement of phosphogypsum in a stack. The processes for requesting such an approval are described in 40 CFR 61.206.

Mosaic Fertilizer, LLC submitted a request for a Small-scale Road Pilot Project on Private Land in Florida in March 2022, and submitted a Revised Request for Approval of Use of Phosphogypsum in Small-scale Pilot Project in August 2023. Mosaic has proposed to construct a small-scale pilot project at its New Wales facility in Polk County, Florida. Mosaic’s plan is to construct four sections of test road having varying mixtures of phosphogypsum (PG) in the road base “to demonstrate the range of PG road construction designs that meet the Florida Standard Specifications for Road and Bridge construction” (Request for Approval of Additional Uses of Phosphogypsum Pursuant to 40 CFR 61.206, Small-scale Road Pilot Project on Private Land in Florida). The pilot project will be constructed in the place of an existing facility road near the phosphogypsum stack, and the study will be conducted in conjunction with researchers from the University of Florida.

The EPA performed a complete review of Mosaic’s request, documented in “Review of the Small-scale Road Pilot Project on Private Land in Florida Submitted by Mosaic Fertilizer, LLC” (www.regulations.gov, Docket ID No. EPA–HQ–OAR–2024–0446). The Agency’s review found that Mosaic’s request is complete per the requirements of 40 CFR 61.206(b). Further, the review found that Mosaic’s risk assessment is technically acceptable, and that the potential radiological risks from the proposed

project meet the regulatory requirements of 40 CFR 61.206(c); that is, the project is at least as protective of public health as maintaining the phosphogypsum in a stack. Therefore, the Agency issued an approval of the small-scale pilot project per 40 CFR 61.206, subject to terms and conditions which limit the project to the scope of the application. The terms and conditions are included in the approval letter to Mosaic, which is available in the public docket and on the EPA website, <https://www.epa.gov/radiation/phosphogypsum>. Approval by the Agency is specific to the pilot project as described in the Mosaic request and indicates only that this project meets the approval requirements of Subpart R.

II. Public Comments and Responses

The EPA's decision to approve or deny a request for other use under 40 CFR 61.206 is not a rulemaking. In December 2005, the EPA issued a guidance document, "Applying to EPA for Approval of Other Uses of Phosphogypsum: Preparing and Submitting a Complete Petition Under 40 CFR 61.206, A Workbook" (December 2005). Although this guidance is not binding, the EPA sought public comment on this pending approval using the procedure described in Section 2.4 of the Workbook. As outlined in the Workbook, the EPA published a notice of availability of this pending approval in the **Federal Register** on October 9, 2024, and opened a 30-day comment period, which was extended in response to public requests for an additional 15 days to close on November 23, 2024. Physical copies of the Mosaic request and the EPA's technical evaluation were placed for public review in the Mulberry Public Library, 905 NE 5th Street, Mulberry, FL 33860. The EPA also placed notices of public availability in local newspapers.

The EPA has reviewed all comments received for their relevance to the pending approval.

Many comments requested an extension of the 30-day comment period. The EPA extended the comment period in response to these requests.

The majority of comments were generally opposed to the use of phosphogypsum in public roads, and critical of the current state of phosphogypsum management; these comments were determined to be outside the scope of this action, which is specific to the small-scale pilot project as it is described in Mosaic's request. The EPA's approval applies only to the proposed pilot project and not any broader use. Any other use would require a separate application, risk assessment, and approval.

Comments related to EPA's management of phosphogypsum and its non-radiological contaminants under the Resource Conservation and Recovery Act and other statutes similarly fell outside the scope of the current decision. EPA has documented other regulatory issues in its supporting documents, but EPA's decision is only a determination of the permissibility of the project under the Clean Air Act National Emissions Standards for Hazardous Air Pollutants for Radionuclides. It does not imply any other regulatory approval or determinations of compliance. These must be obtained or made separately from this decision.

Some commenters indicated that EPA established a legal ban on the use of phosphogypsum in road construction by considering but not issuing a categorical approval in 1992. Road use is not prohibited by the regulation as amended in 1992 and is eligible to be considered as an "other use."

Commenters were critical of many aspects of the risk assessment. Commenters questioned the EPA's overall ability to perform radiological risk assessment, use of fatal radiogenic cancers as a health endpoint, selection of dose and risk coefficients, selection of models, and selection of exposure scenarios and whether current risk data was used. Specifically, several commenters believed that greater emphasis should be placed on the consideration of a future resident at the site of the pilot project. These comments represent disagreements with decisions that EPA has made in its evaluation of potential risks associated with the proposed pilot project, rather than new information that the Agency has not previously considered. After reviewing the comments, the EPA continues to believe that the risk assessments associated with this pilot project are consistent with current radiological risk assessment methodologies and precedent, and sufficient to evaluate the project per the requirements of 40 CFR 61.206. Results from multiple modeling efforts indicate that risks due to the proposed pilot project are low. EPA believes that for this existing site, it is most appropriate to consider the potential risk to site workers and the nearest residents to the site when determining whether the pilot project is as protective as leaving the phosphogypsum in the stack. No comments raised topics which EPA did not consider in its technical evaluation or lead to a concern for human health or environmental impacts not previously considered.

The Agency's response to comments document is available in the public docket¹ and on the EPA phosphogypsum website,² together with electronic copies of the application, the EPA's review, and relevant background materials.

Joseph Goffman,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2024–30508 Filed 12–20–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1155; FR ID 269133]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before February 21, 2025. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

¹ <https://www.regulations.gov>, Docket ID No. EPA–HQ–OAR–2024–0446.

² <https://www.epa.gov/radiation/phosphogypsum#aup>.